

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JOHN C. TUELL)

For Appellant: John C. Tuell, in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of John C. Tuell against a proposed **assessment** of additional personal income tax and penalties in the total amount of \$1,595.84 for the year 1978.

Appeal of John C. Tuell

The sole issue for determination is whether appellant has shown respondent's determination to be incorrect.

After receiving California Employment Development Department information that appellant had received income during 1978, respondent advised appellant that it had no record of his having filed a personal income tax return for that year and demanded that he file any legally required return. Appellant replied that he was not required to file a return for 1978. Respondent then issued a notice of proposed assessment of personal income tax based on the Employment Development Department information. The assessment included amounts added for failure to file a return (Rev. & Tax. Code, § 18681), failure to furnish requested information (Rev. & Tax. Code, § 18683), for negligence (Rev. & Tax. Code, § 18684), and for failure to pay the estimated tax (Rev. & Tax. Code, § 18685.05).

It is well settled that respondent's determinations of tax and penalties are presumptively correct and the taxpayer bears the burden of proving them **erroneous**. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980.) --

Appellant protested the proposed assessment stating that his principal receipts were wages, that wages were not defined as income by any dictionary, that he had no objection to an apportioned direct tax or to a uniform indirect or excise tax, and that those taxes were the only taxes authorized by the Constitution.

We have several times considered and rejected arguments that wages are not taxable income and that the California's personal income taxes are not permitted by the United States Constitution. (Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, 1981; Appeal of David M. Albrecht, Cal. St. Bd. of Equal., Feb. 1, 1982; Appeal of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, 1982.) For the reasons expressed in our prior opinions, we reject appellant's general argument that he is not subject to any California personal income tax.

Appellant did not offer any information to demonstrate an error in the computations on which respondent based its proposed assessment. Accordingly, we sustain respondent's assessments and penalties.

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ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of John C. Tuell against a proposed assessment of additional personal income tax and penalty in the total amount of **\$1,595.84** for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day
of June , 1982, by the State Board of Equalization,
with Board Members Mr. Bennett, **Mr.** Dronenburg and
Mr. Nevins present.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr. _____, Member

Richard Nevins _____, Member

_____, Member

_____, Member